111-3-6 INDIGENT CARE TRUST FUND

350-6-.01 Definitions.

~~(1) "Disproportionate share hospital" means a hospital licensed in Georgia which meets at least one of the criteria established by the Department for designation as a hospital which serves a disproportionate number of low-income patients with special needs.~~

~~(2) "Medically indigent" means a person with an income no greater than 200 percent of the federal poverty level guidelines as published by the United States Department Health and Human Services.~~

~~(3) "Trust Fund" means the Indigent Care Trust Fund created by O.C.G.A. Title 31, Chapter 8, Article 6.~~

Authority O.C.G.A. Secs. 31-8-155, 49-4-142. **History**. Original Rule entitled "Definitions" adopted as ER 350-6-.01. F. June 18, 1990; eff. June 13, 1990, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended**: Permanent Rule of the same title adopted. F. Aug. 15, 1990; eff. Sept. 14, 1990, as specified by the Agency. **Repealed**: New Rule, same title, adopted. F. Sept. 7, 1993; eff. Oct. 1, 1993, as specified by the Agency. **Repealed**: New Rule, same title, adopted. F. Aug. 14, 2000; eff. Sept. 3, 2000.

111-3-6-.01 Definitions.

(1) “Disproportionate share hospital” means a hospital licensed in Georgia which meets at least one of the criteria established by the Department for designation as a hospital which serves a disproportionate number of low-income patients with special needs.

(2) “Medically indigent” means a person with an income no greater than 200 percent of the federal poverty level guidelines as published by the United States Department Health and Human Services.

(3) “Trust Fund” means the Indigent Care Trust Fund created by O.C.G.A. Title 31, Chapter 8, Article 6.

(4) “Private Hospital” means any hospital licensed in Georgia which is not a public hospital.

(5) “Public Hospital” means any hospital licensed in Georgia that is owned by the State of Georgia, a city, county, or an authority organized pursuant to the “Hospital Authorities Law,” O.C.G.A. § 31-7-70 *et. seq.*

SYNOPSIS

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

This regulation is amended to add additional definitions to conform to guidance from the Centers for Medicare and Medicaid Services regarding payments to disproportionate share hospitals.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Paragraphs (4) and (5) are added.

350-6-.02 Contributions and Deposited and Transferred Revenues.

(1) Contributions to the Trust Fund may be made by any person authorized to contribute to the Trust Fund pursuant to O.C.G.A. Section 31-8-153. Contributions to the Trust Fund shall be irrevocable and shall not include any limitation upon use of such contributions except as permitted in this article or by the Department. Contributions shall only be used for the purposes contained in O.C.G.A. Section 31-8-154.

(2) Contributions to the Trust Fund may be made within the time periods established by the Department during each calendar year. Such contributions may be deposited to the Trust Fund by means of electronic funds transfer, when pre-authorized by the Department.

(3) Hospital authorities, counties, municipalities, or other state or local public or governmental entities are authorized to deposit or transfer moneys to the Trust Fund. Transfer of these funds shall be a valid public purpose for which those funds may be expended. Such transfers shall be irrevocable and shall not include any limitation upon use of such transfer except as permitted in this article or by the Department. Transfers shall only be used for the purposes authorized by O.C.G.A. Section 31-8-154.

(4) Entities authorized to deposit or transfer moneys to the Trust Fund shall execute a contract, agreement or other instrument for the purpose of facilitating such deposit or transfer. Such contracts, agreements or other instruments shall be effective for a period of no more than twelve (12 months). Violation f the terms of a contract, agreement or other instrument executed pursuant to this Rule may result in the withholding or recoupment of Trust Fund payment adjustments to the subject disproportionate share hospital unless remedial action is taken by such hospital within thirty (30) days of notice of deficiency by the Department.

(5) Contributions and revenues deposited and transferred to the Trust Fund may be made for expansions of Medicaid eligibility and services, for programs to support rural and other health care providers, primarily hospitals, who serve the medically indigent, for primary health care programs for medically indigent citizens and children of this state, or for any combination of purposes specified in this paragraph.

(6) Contributions and revenues deposited and transferred by or on behalf of a disproportionate share hospital later determined to be inappropriately so designated or which fails to meet the conditions of these Rules and the contracts, agreements, or other instruments executed pursuant to Rules 350-6-.02(4) and 350-6-.03(4)(e)(15), shall be returned to the contributor, depositor, or transferor with interest earned after collection of payments made to such hospital pursuant to the provisions of these rules.

~~(7) Contributions, revenues, or moneys deposited and transferred by or on behalf of a disproportionate share hospital which closes during the fiscal year in which the funds are received shall be returned with interest earned pro rata to such hospital, provided that the hospital has not received a disproportionate share hospital payment for that fiscal year.~~

~~(8) All contributions, revenues, or moneys transferred or deposited to the Trust Fund and any interest earned thereon which have not been appropriated by the end of the fiscal year or which have been appropriated but have been determined to be:~~

~~(a) Void because of having been appropriated in violation of Code Section 31-8-156;~~
~~(b) Ineligible for anticipated federal matching funds;~~
~~(c) Not contractually obligated at the end of the fiscal year for which they were appropriated;~~
~~(d) Subject to return pursuant to any rule of the Department or~~
~~(e) Void because of violation by the Department of the terms of a contract, agreement, or other instrument executed pursuant to subsection (c) of Code Section 31-8-155; shall be returned to the Trust Fund and refunded pro rata to the entities responsible for the deposit, transfer, or contribution. The refund shall be made by the director of the Fiscal Division of the Department of Administrative Services no less than thirty (30) days following the end of the fiscal year or such a determination by the Department, as applicable.~~

Authority O.C.G.A. Secs. 31-8-155, 49-4-142. **History**. Original Rule entitled "Contributions" adopted as ER. 350-6-.02 F. June 18, 1990, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended**: Permanent Rule of the same title adopted. F. Aug. 15, 1990, eff. Sept. 14, 1990, as specified by the Agency. **Repealed**: New Rule, entitled "Contributions and Deposited and Transferred Revenues" adopted. F. Sept. 7, 1993; eff. Oct. 1, 1993, as specified by the Agency. **Repealed**: New Rule of same title adopted. F. Aug. 14, 2000; eff. Sept. 3, 2000.

111-3-6-.02 Contributions and Deposited and Transferred Revenues.

(1) Contributions to the Trust Fund may be made by any person authorized to contribute to the Trust Fund pursuant to O.C.G.A. Section 31-8-153. Contributions to the Trust Fund shall be irrevocable and shall not include any limitation upon use of such contributions except as permitted in this article or by the Department. Contributions shall only be used for the purposes contained in O.C.G.A. Section 31-8-154.

(2) Contributions to the Trust Fund may be made within the time periods established by the Department during each calendar year. Such contributions may be deposited to the Trust Fund by means of electronic funds transfer, when pre-authorized by the Department.

(3) Hospital authorities, ~~public hospitals,~~ counties, municipalities, or other state or local public or governmental entities are authorized to deposit or transfer moneys to the Trust Fund. Transfer of these funds shall be a valid public purpose for which those funds may be expended. Such transfers shall be irrevocable and shall not include any limitation upon use of such transfer except as permitted in this article or by the Department. Transfers shall only be used for the purposes authorized by O.C.G.A. Section 31-8-154.

(4) Entities authorized to deposit or transfer moneys to the Trust Fund shall execute a contract, agreement or other instrument for the purpose of facilitating such deposit or transfer. Such contracts, agreements or other instruments shall be effective for a period of no more than twelve (12 months). Violation of the terms of a contract, agreement or other instrument executed pursuant to this Rule, or the failure of an entity to execute a contract, agreement, or other instrument, may result in the withholding or recoupment of Trust Fund payment adjustments to the subject disproportionate share hospital unless remedial action satisfactory to the Department is taken by such hospital within thirty (30) days of notice of deficiency by the Department.

(5) Contributions and revenues deposited and transferred to the Trust Fund may be made for expansions of Medicaid eligibility and services, for programs to support rural and other health care providers, primarily hospitals, who serve the medically indigent, for primary health care programs for medically indigent citizens and children of this state, or for any combination of purposes specified in this paragraph.

(6) Contributions and revenues deposited and transferred by or on behalf of a disproportionate share hospital later determined to be inappropriately so designated or which fails to meet the conditions of these Rules and the contracts, agreements, or other instruments executed pursuant to Rules 111-3-6-.02(4) and 111-3-6-.03(4)(e)(14), shall be returned to the contributor, depositor, or transferor

with interest earned after collection of payments made to such hospital pursuant to the provisions of these rules.

(7) Contributions, revenues, or moneys deposited and transferred by or on behalf of a disproportionate share hospital which closes during the fiscal year in which the funds are received shall be returned with interest earned pro rata to such hospital, provided that the hospital has not received a disproportionate share hospital payment for that fiscal year. Such hospital shall not be eligible for further payments during that fiscal year.

(8) All contributions, revenues, or moneys transferred or deposited to the Trust Fund and any interest earned thereon which have not been appropriated by the end of the fiscal year or which have been appropriated but have been determined to be:

(a) Void because of having been appropriated in violation of Code Section 31-8-156;
(b) Ineligible for anticipated federal matching funds;
(c) Not contractually obligated at the end of the fiscal year for which they were appropriated;
(d) Subject to return pursuant to any rule of the Department or
(e) Void because of violation by the Department of the terms of a contract, agreement, or other instrument executed pursuant to subsection (c) of Code Section 31-8-155;

shall be returned to the Trust Fund and refunded pro rata to the entities responsible for the deposit, transfer or contribution. The refund shall be made by the director of the Fiscal Division of the Department of Administrative Services no less than thirty (30) days following the end of the fiscal year or such a determination by the Department, as applicable.

SYNOPSIS

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

This regulation is amended to clarify the regulation to reflect Department policy.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

In paragraph (4), the rule is to clarify the consequence of failure to execute a contract, agreement, or other required instrument and to clarify that it is the Department which determines if remedial action is adequate.

The last sentence in paragraph (7) is added.

350-6-.03 Use of Funds.

(1) Funds appropriated by the General Assembly to the Department pursuant to O.C.G.A. Sec. 31-8-156 shall be used for the purposes stated in Rule 350-6-.02(5) and shall be used to match federal funds which are available for such purposes.

(2) The Department shall provide for public notice of the manner of disbursement of the Trust Fund appropriation as provided in Rule 350-1-.02(3) and 350-2-.08. Such funds may be transferred to disproportionate share hospitals by electronic funds transfer.

(3) The Department shall issue a manual of policies and procedures and other instructions for disproportionate share hospital programs pursuant to Rule 350-6-.03 (the "Manual"), and shall adopt the Manual as an appendix to Part II of the Department's Policies and Procedures for Hospital Services. The Manual shall contain policies, procedures, instructions, public notification plan requirements, forms and other items for hospitals' use in operating their programs consistent with these Rules. The Manual shall contain a procedure for accepting and resolving complaints concerning a hospital's compliance with Rule 350-6-.03(3). The Department may approve a plan for the operation of a disproportionate share hospital to coordinate its program with an existing program of care for the medically indigent sponsored by a local government, provided that the program is operated in a manner consistent with these Rules and further provided that the program is operated in a manner consistent with these Rules and further provided that no patients are rendered ineligible for services without charge or at a reduced charge who would have been eligible if the variance had not been granted.

(4) As a condition of receipt of such funds, providers of medical assistance must:

(a) continue participation in the Medicare program;
(b) comply with the Rules and the Department's Policies and Procedures, including specifically Part II of the Department's Policies and Procedures for Hospital Services and the Manual;
(c) comply with the Department's requests for reports on the use of funds;
(d) use the funds to provide health care services to Medicaid recipients and medically indigent citizens of the state; and
(e) if the provider is a disproportionate share hospital, meet the following additional conditions:

1. continue participation in the Medicare program;

2. make available its services to Medicaid and Medicare recipients without discrimination;

3. continue to provide obstetrical care services if such services are presently provided;

4. comply with the patient transfer requirements provided in the Emergency Medical Treatment and Active Labor Act of 1986, as amended;

5. ensure that patients are not transferred or denied services based solely or in significant part on economic reasons;

6. make arrangements with sufficient numbers of physicians on each service to assure that Medicaid patients have full access to the facility's services without being required to pay physicians for Medicaid covered services;

7. make arrangements with physicians to ensure Medicaid and medically indigent patients are not required to have a physician with staff privileges as a condition of admission or treatment when such admission or treatment is determined to be medically necessary and within the scope of service capability of the hospital;

8. document which physicians with staff privileges accept and will treat Medicaid patients in their offices, and assist Medicaid patients with referrals to such physicians. The hospital shall encourage full provider participation in the Medicaid program;

9. ensure that preadmission deposits are not required on demand as a condition of treatment of Medicaid eligible persons or medically indigent persons;

10. for treatment of medically indigent patients, ensure that ability to pay does not act to deny or substantially delay receipt of medically necessary services. The hospital shall provide assistance to medically indigent patients by operating a program under which such patients may receive care without charge or at a reduced charge, except that no hospital shall be required to provide services without charge or at a reduced charge once the hospital's medical indigency services expenditures equals the amount described in Rule 350-6-.03(4)(e)(12)(c). Consistent with the Rules and the Manual, the hospital shall:

(a) provide services for no charge to persons with incomes below 125 percent of the federal poverty level; and

(b) provide services for no charge or adopt a sliding fee scale for persons with incomes between 125 percent and, at a minimum, 200 percent of the federal poverty level;

11. as more specifically set forth in the Manual, effectively advise the public of the hospital's participation in the program, the availability of services provided, the terms of eligibility for free and reduced charge services, the application process for free and reduced charge services, and the person or office to whom

complaints or questions about the hospital's participation in or operation of the program may be directed; The hospital shall comply with such other provisions as may be reasonably established by the Department in the Manual. Upon request by the Department, the hospital shall demonstrate its compliance with the public notification requirements of this section and with the Manual.

12. submit to the Department a report on the use of Trust Fund payment adjustments each calendar year. Such reports shall:

(a) be in a format established by the Department;

(b) be available to the public for examination; and

(c) include a report of the number of medically indigent persons served without charge in both inpatient and primary care settings and the dollars expended for such services. Hospitals shall report dollars expended using a cost-to-charges ratio of 65 percent. Over a twelve month period, each hospital will be expected to report a medical indigency services expenditure of an amount equal to no less than 85 percent of the hospital's total Trust Fund payment adjustments minus the amount transferred or deposited to the Trust Fund by or on behalf of the hospital. Failure to provide such reports in the format prescribed and within the time periods established by the Department, or to demonstrate timely accessibility to Trust Fund supported services, may result in a withholding or recoupment of Trust Fund payment adjustments.

13. use no less than fifteen percent (15%) of the Trust Fund payment adjustments for support of primary care services, which the Department considers to be those services which prevent injury, disability or illness, provide diagnosis and/or initial treatment of injury, disability or illness, and which provide access to such services. Primary care includes community health assessment, health education, screening, health maintenance services, and programs or services which are designed to improve health status and increase access to appropriate care. The hospital shall submit to the Department a plan for use of the primary care service funds within the time periods established by the Department during each calendar year. The hospital may elect to utilize only the Department's list of primary care choice(s) in developing its primary care plan. If the hospital selects the option to utilize the Department's list of primary care choice(s), the hospital shall only be required to inform the District Health Director about its primary care choice(s), and shall not be subject to the further requirements of subsection (a) through (j) below. If the hospital elects to submit a hospital specific primary care plan, such plan shall:

(a) address a community health need;

(b) demonstrate that the disproportionate share hospital has evaluated the needs of the community and coordinated development of its plan with the District Health

~~Director, area community and rural health centers, other appropriate primary care providers and patient advocates;~~

~~(c) be submitted to the Department with a letter of endorsement from the District Health Director;~~

~~(d) list and describe the services to be provided and the timetable for their implementation;~~

~~(e) provide assurance that the disproportionate share hospital gave specific consideration to providing support for the expansion or creation of federally qualified health center or rural health clinic services;~~

~~(f) identify the target populations for the proposed services;~~

~~(g) assure that primary care service funds will not be used for bad debts or contractual write-offs, inpatient hospital services, supplanting of other sources of support for primary care services, support of health care providers who do not participate in the Medicaid program, accept Medicare assignment or agree to serve the medically indigent, services not identified in the primary care service funds plan, or otherwise used in a manner inconsistent with the approved primary care plan;~~

~~(h) provide that no more than one-third of a hospital's primary care service funds will be used for capital expenditures or equipment purchases, provided, however, that the Department may authorize a higher amount for such expenditures or purchases when endorsed by the community review described in Rule 350-6-.03(4)(e)(13)(b). Such capital expenditures or equipment purchases shall be made within three years of the approval date of the primary care plan (or such later date as the Department may deem appropriate). Such capital expenditures or equipment purchases are acceptable only when they are dedicated for primary care service support and are necessary to make such services available to Medicaid and medically indigent patients;~~

~~(i) provide for the coordination of services with other primary care providers in the service area;~~

~~(j) be made available to the public upon request; and~~

~~(k) be subject to the approval of the Department. A disproportionate share hospital without an approved plan will not receive a Trust Fund payment adjustment. A disproportionate share hospital which does not comply with the terms of its approved plan or which fails to implement the plan in a timely manner is subject to withholding or recoupment of Trust Fund payment adjustments; and~~

~~14. provide an independent accounting firm's attestation of the Trust Fund Expenditure Report and the annual hospital indigent care survey report filed with the Division of Health Planning of the Department.~~

~~15. sign a letter of Agreement which incorporates the provisions of these Rules, the Department's Policies and Procedures and the Manual.~~

~~16. comply with the requirements of the Certificate of Need program under the Division of Health Planning of the Department, as set forth more specifically in O.C.G.A. Sections 31-6-40 et. seq., and the rules promulgated thereunder, and the annual reporting requirements under O.C.G.A. Section 31-6-70.~~

~~(5) The Department shall annually report to the General Assembly on the use of monies appropriated to the Department from the Trust Fund. Such report shall be submitted to the Lieutenant Governor, Speaker, legislative counsel and legislative budget officer no later than January 31 of each calendar year. Such reports shall be made available to the public pursuant to Rule 350-6-.04.~~

~~(6) In the event that a disproportionate share hospital fails to comply with the Rules, the Department's Policies and Procedures or the Manual, the Department may, in addition to any other legal remedies available, assess liquidated damages against the disproportionate share hospital under its Letter of Agreement in an amount(s) established by the Department for each calendar day in which the hospital is non-compliant. These liquidated damages are not, and shall not be construed to be penalties, and shall be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under contract.~~

~~(7) In the event that a disproportionate share hospital knowingly and willfully makes or causes to be made any false statement or misrepresentation of material fact with respect to the hospital's use of funds from the Trust Fund or in response to any request for information from the Department related to the Trust Fund, including without limitation the submission of any report required pursuant to these Rules, the Department may, in addition to any other legal remedies available, assess liquidated damages against the disproportionate share hospital under its Letter of Agreement in an amount not to exceed the disproportionate share payment for the year in which the false statement or misrepresentation occurred. These liquidated damages are not, and shall not be construed to be penalties, and shall be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under contract.~~

Authority O.C.G.A. Secs. 31-8-155, 49-4-142. **History**. Original Rules entitled "Use of Funds" adopted as ER. 350-6-6-.03. F. June 18, 1990; eff. June 13, 1990, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended**: Permanent Rule of the same title adopted. F. Aug. 15, 1990; eff. Sept. 14, 1990, as specified by the Agency. **Repealed**: New Rule, same title, adopted. F. Sept. 7, 1993; eff. Oct. 1, 1993, as specified by the Agency.

111-3-6-.03 Use of Funds.

(1) Funds appropriated by the General Assembly to the Department pursuant to O.C.G.A. Sec. 31-8-156 shall be used for the purposes stated in Rule ~~350-6-.02(5)~~ 111-3-6-.02(5) and shall be used to match federal funds which are available for such purposes.

(2) The Department shall provide for public notice of the manner of disbursement of the Trust Fund appropriation as provided in Rule 350-1-.02(3) and 350-2-.08. Such funds may be transferred to disproportionate share hospitals by electronic funds transfer.

(3) The Department shall issue a manual of policies and procedures and other instructions for disproportionate share hospital programs ~~pursuant to Rule 350-6-.03~~ (the "Manual"), and shall adopt the Manual as an appendix to Part II of the Department's Policies and Procedures for Hospital Services. The Manual shall contain policies, procedures, instructions, public notification plan requirements, forms and other items for hospitals' use in operating their programs consistent with these Rules. The Manual shall contain a procedure for accepting and resolving complaints concerning a hospital's compliance with these Rules ~~350-6-.03(3)~~. The Department may approve a plan for the operation of a disproportionate share hospital to coordinate its program with an existing program of care for the medically indigent sponsored by a local government, provided that the program is operated in a manner consistent with these Rules and further provided that the program is operated in a manner consistent with these Rules and further provided that no patients are rendered ineligible for services without charge or at a reduced charge who would have been eligible if the variance had not been granted.

(4) As a condition of receipt of such funds, providers of medical assistance must:

(a) continue participation in the Medicare program;
(b) comply with the Rules and the Department's Policies and Procedures, including specifically Part II of the Department's Policies and Procedures for Hospital Services and the Manual;
(c) comply with the Department's requests for reports on the use of funds;
(d) use the funds to provide health care services to Medicaid recipients and medically indigent citizens of the state; and
(e) if the provider is a disproportionate share hospital, meet the following additional conditions:

1. continue participation in the Medicare program;

2. make available its services to Medicaid and Medicare recipients without discrimination;

3. continue to provide obstetrical care services if such services are presently provided;

4. comply with the patient transfer requirements provided in the Emergency Medical Treatment and Active Labor Act of 1986, as amended;

5. ensure that patients are not transferred or denied services based solely or in significant part on economic reasons;

6. make arrangements with sufficient numbers of physicians on each service to assure that Medicaid patients have full access to the facility's services without being required to pay physicians for Medicaid covered services;

7. make arrangements with physicians to ensure Medicaid and medically indigent patients are not required to have a physician with staff privileges as a condition of admission or treatment when such admission or treatment is determined to be medically necessary and within the scope of service capability of the hospital;

8. document which physicians with staff privileges accept and will treat Medicaid patients in their offices, and assist Medicaid patients with referrals to such physicians. The hospital shall encourage full provider participation in the Medicaid program;

9. ensure that preadmission deposits are not required on demand as a condition of treatment of Medicaid eligible persons or medically indigent persons;

10. for treatment of medically indigent patients, ensure that ability to pay does not act to deny or substantially delay receipt of medically necessary services. The hospital shall provide assistance to medically indigent patients by operating a program under which such patients may receive care without charge or at a reduced charge, except that no hospital shall be required to provide services without charge or at a reduced charge once the hospital's medical indigency services expenditures equals the amount described in Rule ~~350-6-.03(4)(e)(12)(c)~~111-3-6-.03(4)(e)(12(c). Consistent with the Rules and the Manual, the hospital shall:

(a) provide services for no charge to persons with incomes below 125 percent of the federal poverty level; and

(b) provide services for no charge or adopt a sliding fee scale for persons with incomes between 125 percent and, at a minimum, 200 percent of the federal poverty level;

11. as more specifically set forth in the Manual, effectively advise the public of the hospital's participation in the program, the availability of services provided,

the terms of eligibility for free and reduced charge services, the application process for free and reduced charge services, and the person or office to whom complaints or questions about the hospital's participation in or operation of the program may be directed; The hospital shall comply with such other provisions as may be reasonably established by the Department in the Manual. Upon request by the Department, the hospital shall demonstrate its compliance with the public notification requirements of this section and with the Manual.

12. submit to the Department a report on the use of Trust Fund payment adjustments each calendar year. Such reports shall:

(a) be in a format established by the Department;

(b) be available to the public for examination; and

(c) include a report of the number of medically indigent persons served without charge in both inpatient and primary care settings and the dollars expended for such services. Hospitals shall report dollars expended using a cost-to-charges ratio of 65 percent. Over a twelve month period, each hospital will be expected to report a medical indigency services expenditure of an amount equal to no less than ~~85~~ 100 percent of the hospital's total Trust Fund payment adjustments minus the amount transferred or deposited to the Trust Fund by or on behalf of the hospital. Failure to provide such reports in the format prescribed and within the time periods established by the Department, or to demonstrate timely accessibility to Trust Fund supported services, may result in a withholding or recoupment of Trust Fund payment adjustments.

13. ~~use no less than fifteen percent (15%) of the Trust Fund payment adjustments for support of primary care services, which the Department considers to be those services which prevent injury, disability or illness, provide diagnosis and/or initial treatment of injury, disability or illness, and which provide access to such services. Primary care includes community health assessment, health education, screening, health maintenance services, and programs or services which are designed to improve health status and increase access to appropriate care. The hospital shall submit to the Department a plan for use of the primary care service funds within the time periods established by the Department during each calendar year. The hospital may elect to utilize only the Department's list of primary care choice(s) in developing its primary care plan. If the hospital selects the option to utilize the Department's list of primary care choice(s), the hospital shall only be required to inform the District Health Director about its primary care choice(s), and shall not be subject to the further requirements of subsection (a) through (j) below. If the hospital elects to submit a hospital specific primary care plan, such plan shall:~~

~~(a) address a community health need;~~

(b) demonstrate that the disproportionate share hospital has evaluated the needs of the community and coordinated development of its plan with the District Health Director, area community and rural health centers, other appropriate primary care providers and patient advocates;

(c) be submitted to the Department with a letter of endorsement from the District Health Director;

(d) list and describe the services to be provided and the timetable for their implementation;

(e) provide assurance that the disproportionate share hospital gave specific consideration to providing support for the expansion or creation of federally qualified health center or rural health clinic services;

(f) identify the target populations for the proposed services;

(g) assure that primary care service funds will not be used for bad debts or contractual write-offs, inpatient hospital services, supplanting of other sources of support for primary care services, support of health care providers who do not participate in the Medicaid program, accept Medicare assignment or agree to serve the medically indigent, services not identified in the primary care service funds plan, or otherwise used in a manner inconsistent with the approved primary care plan;

(h) provide that no more than one-third of a hospital's primary care service funds will be used for capital expenditures or equipment purchases, provided, however, that the Department may authorize a higher amount for such expenditures or purchases when endorsed by the community review described in Rule 350-6-.03(4)(e)(13)(b). Such capital expenditures or equipment purchases shall be made within three years of the approval date of the primary care plan (or such later date as the Department may deem appropriate). Such capital expenditures or equipment purchases are acceptable only when they are dedicated for primary care service support and are necessary to make such services available to Medicaid and medically indigent patients;

(i) provide for the coordination of services with other primary care providers in the service area;

(j) be made available to the public upon request; and

(k) be subject to the approval of the Department. A disproportionate share hospital without an approved plan will not receive a Trust Fund payment adjustment. A disproportionate share hospital which does not comply with the terms of its approved plan or which fails to implement the plan in a timely manner is subject to withholding or recoupment of Trust Fund payment adjustments; and

~~14. provide an independent accounting firm's attestation of the Trust Fund Expenditure Report and the annual hospital indigent care survey report filed with the Division of Health Planning of the Department.~~

~~15~~. sign a letter of Agreement which incorporates the provisions of these Rules, the Department's Policies and Procedures and the Manual.

~~16~~14. comply with the requirements of the Certificate of Need program under the Division of Health Planning of the Department, as set forth more specifically in O.C.G.A. Sections 31-6-40 et. seq., and the rules promulgated thereunder, and the annual reporting requirements under O.C.G.A. Section 31-6-70.

(5) The Department shall annually report to the General Assembly on the use of monies appropriated to the Department from the Trust Fund. Such report shall be submitted to the Lieutenant Governor, Speaker, legislative counsel and legislative budget officer no later than January 31 of each calendar year. Such reports shall be made available to the public pursuant to Rule ~~350-6-.04~~111-3-6-.04.

(6) In the event that a disproportionate share hospital fails to comply with the Rules, the Department's Policies and Procedures or the Manual, the Department may, in addition to any other legal remedies available, assess liquidated damages against the disproportionate share hospital under its Letter of Agreement in an amount(s) established by the Department for each calendar day in which the hospital is non-compliant. These liquidated damages are not, and shall not be construed to be penalties, and shall be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under contract.

(7) In the event that a disproportionate share hospital knowingly and willfully makes or causes to be made any false statement or misrepresentation of material fact with respect to the hospital's use of funds from the Trust Fund or in response to any request for information from the Department related to the Trust Fund, including without limitation the submission of any report required pursuant to these Rules, the Department may, in addition to any other legal remedies available, assess liquidated damages against the disproportionate share hospital under its Letter of Agreement in an amount not to exceed the disproportionate share payment for the year in which the false statement or misrepresentation occurred. These liquidated damages are not, and shall not be construed to be penalties, and shall be in addition to every other remedy now or hereinafter enforceable at law, in equity, by statute, or under contract.

(8) Disproportionate share hospital payment adjustments to private hospitals shall be funded by state general funds appropriated for this purpose, which shall be used to match federal funds available for this purpose.

(9) Disproportionate share hospital payment adjustments to public hospitals shall be funded by intergovernmental transfers or by certified public expenditures, or a combination thereof, which shall be used to match federal funds available for this purpose.

SYNOPSIS

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

This regulation is amended to conform to current federal requirements.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Subparagraphs (4)(13) and (4)(13) are deleted and the remaining subparagraphs are renumbered. Paragraphs (8) and (9) are added.

350-6-.04 Open Records.

~~(1) All Department records related to the Indigent Care Trust Fund shall be open for public inspection in accordance with the Open Records Act, O.C.G.A. § 50-18-70 *et seq.*~~

Authority O.C.G.A. § 31-6. **History**. Original Rule entitled "Open Records" adopted F. Aug. 14, 2000, eff. Sept. 3, 2000.

111-3-6-.04 Open Records..

~~(1)~~ All Department records related to the Indigent Care Trust Fund shall be open for public inspection in accordance with the Open Records Act, O.C.G.A. § 50-18-70 *et seq.*

SYNOPSIS

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

No substantive revisions are proposed.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

The numbering of the single paragraph is deleted.

350-6-.05 Applicability of Medical Assistance Generally.

~~(1) Except where inconsistent with O.C.G.A., Title 49, Chapter 4, Article 6 (Indigent Care Trust Fund), the provisions of O.C.G.A., Title 49, Chapter 4, Article 7 (Georgia Medical Assistance Act of 1977) shall apply to the Department in carrying out the purposes of the Trust Fund.~~

Authority O.C.G.A. Secs. 31-6. **History**. Original Rule entitled "Applicability of Medical Assistance Generally" adopted. F. Aug. 14, 2000; eff. Sept. 3, 2000.

111-3--6-.05 Applicability of Medical Assistance Generally.

~~(1)~~ Except where inconsistent with O.C.G.A., Title ~~49~~31, Chapter ~~4~~8, Articles 6, 6A, and 6B (Indigent Care Trust Fund), the provisions of O.C.G.A., Title 49, Chapter 4, Article 7 (Georgia Medical Assistance Act of 1977) shall apply to the Department in carrying out the purposes of the Trust Fund.

SYNOPSIS

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

No substantive revisions are proposed.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

The numbering of the single paragraph is deleted. The statutory reference to the provisions creating the Indigent Care Trust Fund is modified.